

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

ZACHARY VERGARA, individually and
on behalf of a class of similarly situated
individuals,

Plaintiff,

V.

NINTENDO OF AMERICA INC., a Delaware
Limited Liability Company,

Defendant.

No. 19-cv-06374

Hon. Gary S. Feinerman

Magistrate Judge Jeffrey T. Gilbert

PLAINTIFF'S MOTION FOR LEAVE TO FILE
FIRST AMENDED COMPLAINT

Plaintiff Zachary Vergara, through his undersigned counsel, hereby moves this Honorable Court, pursuant to Rule 15 of the Federal Rules of Civil Procedure, for leave to file a First Amended Class Action Complaint in this matter. In support of his Motion, Plaintiff states as follows:

1. The court has not yet set a case scheduling order nor a deadline for amending pleadings, nor has the Court issued a ruling on Defendant’s Motion to Compel Arbitration and Dismiss. (Dkt. 17.)

2. Pursuant to Fed. R. Civ. P. 15(a)(2), Plaintiff seeks leave to file a proposed First Amended Complaint, attached as Exhibit A to Plaintiff's Memorandum of Law in Support of Motion for Leave to File First Amended Complaint, filed contemporaneously herewith.

3. As set forth in detail in the accompanying Memorandum of Law, Plaintiff seeks leave to amend his Complaint to address the arguments raised by Defendant in its Reply in Support of its Motion to Compel Arbitration and Dismiss (Dkt. 25) and which the Court sought

additional clarification on at oral argument on Defendant's motion (Dkt. 28) regarding the damages and relief that he is seeking for his claims against Defendant.

WHEREFORE, for the reasons set forth in the accompanying Memorandum of Law, Plaintiff Zachary Vergara respectfully requests that this Court enter an Order granting his Motion for Leave to File First Amended Class Action Complaint and permitting him to file *instanter* the his First Amended Class Action Complaint.

Dated: March 21, 2020

Respectfully submitted,

ZACHARY VERGARA, individually and on behalf
of a class of similarly situated individuals

By: /s/ Eugene Y. Turin
One of His Attorneys

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Attorneys for Plaintiff and the Putative Class

CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2020, I electronically filed the foregoing *Plaintiff's Motion for Leave to File First Amended Complaint* with the Clerk of the Court using the CM/ECF system. A copy of said document will be electronically transmitted to all counsel of record.

By: /s/ Eugene Y. Turin